

# United States District Court

FOR THE

## DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11730 NG

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GEORTO, INC.,  
Plaintiff,

v.

WILLIAM GATEMAN, INDIVIDUALLY  
and as TRUSTEE OF 200 UNION  
STREET REALTY TRUST

Defendant,  
Third Party Plaintiff, and  
Third Party Defendant-in-  
Counterclaim

ROBERTS CORPORATION

Third Party Defendant,  
and Third Party Plaintiff-in-  
Counterclaim  
\_\_\_\_\_

### **ROBERTS CORPORATION'S MOTION FOR ATTORNEY FEES AND COSTS PURSUANT TO FED.R.CIV.P. 11**

Pursuant to Fed.R.Civ.P. 11, third-party defendant, Roberts Corporation ("Roberts") moves this honorable Court for attorney's fees and costs. In support of this motion, Roberts relies the accompanying memorandum of law.

This action arises out of a conveyance of real property from Gateman to the Plaintiff Georto, Inc. ("Georto"). In its Complaint, Georto alleges that, after purchase of the real property located between Ellis Street and Union Street in Lynn, Massachusetts ("the Property"), and upon commencement of construction of a new commercial building, it discovered substantial demolition debris and solid waste that had been concealed below grade in contravention of Gateman's warranty and representations in a

June 2003 purchase and sale agreement. Georto further alleges that in Spring 2004 it was required to excavate, remove, and dispose of 167 truckloads of debris and to replace with acceptable fill in order to construct its building on the Property.

After Georto filed suit, Gateman filed a three paragraph Third Party Complaint against Roberts generally alleging breach of contract and indemnity with regard to Roberts' demolition of a condemned building on the Property in March-May 2002. This Court found in favor of Roberts on July 3, 2007. See Memorandum and Order of July 3, 2007, Document # 97. As demonstrated by the accompanying memorandum of law and this Honorable Court's findings of fact, Gateman was fully aware at the time of filing his Complaint that Roberts had completed its job pursuant to the contract and any materials that were found at the site either remained at the site pursuant to Gateman's instructions or were buried by Gateman himself.

In support of its Motion for Attorney's fees, Roberts relies the following documents, incorporated by reference into this motion:

1. Memorandum of Law in Support of Motion for Attorney's fees; and
2. Affidavit of J. Mark Dickison.

WHEREFORE, pursuant to Fed.R.Civ.P 11 Roberts Corporation requests that this Honorable Court award attorney's fees and costs to the third-party defendant.

Respectfully submitted,  
Roberts Corporation,  
By its Attorney,

/s/ J. Mark Dickison  
J. Mark Dickison (BBO# 629170)  
LAWSON & WEITZEN, LLP  
88 Black Falcon Ave., Ste. 345  
Boston, MA 02210  
617-439-4990  
[mdickison@lawson-weitzen.com](mailto:mdickison@lawson-weitzen.com)